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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

19 IN RE: FACEBOOK, INC. CONSUMER
20 PRIVACY USER PROFILE LITIGATION,

21 This document relates to:

22 ALL ACTIONS

23 CASE NO. 3:18-MD-02843-VC

24 **FACEBOOK, INC.'S STATEMENT IN**
SUPPORT OF PLAINTIFFS'
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER ANOTHER
PARTY'S MATERIALS SHOULD BE
SEALED

1 Pursuant to Civil Local Rules 7-11 and 79-5, Facebook, Inc. (“Facebook”) hereby submits
 2 this Statement in Support of Plaintiffs’ Administrative Motions to Consider Whether Another
 3 Party’s Materials Should Be Sealed (Dkts. 1026, 1028, 1030, and 1032) (“Administrative
 4 Motions”). For the reasons explained below, there is good cause to seal permanently this
 5 information and Facebook’s request is narrowly tailored under the circumstances.

6 **I. Background**

7 On August 30, 2022, Plaintiffs filed four separate Administrative Motions to Consider
 8 Whether Another Party’s Materials Should Be Sealed pursuant to Civil Local Rule 79-5(f),
 9 attaching four Special Master’s Orders and the exhibits thereto. Dkts. 1026, 1028, 1030, and 1032.
 10 Given the large volume of new materials within Plaintiffs’ submission that needed to be evaluated
 11 for confidentiality, Plaintiffs and Facebook agreed to and filed a Stipulation and Proposed Order
 12 extending Facebook’s deadline to respond to Plaintiffs’ Administrative Motions to September 9,
 13 2022, which remains pending with the Court. Dkt. 1040. Facebook hereby submits its preliminary
 14 statement in support of sealing portions of Special Master’s Order Regarding Facebook’s
 15 Objections to 30(b)(6) Written Questions (Dkt. 1032-3). Facebook will submit an amended
 16 statement in support of sealing portions of the exhibits to this Order on September 9, 2022.

17 Although attached to Plaintiffs’ Administrative Motion, Facebook is not seeking to seal or
 18 redact the Special Master’s Amended Order on Plaintiffs’ Motion for Additional Time to Conduct
 19 Rule 30(b)(6) Depositions (Dkt. 1026-3), the Special Master’s Order on Plaintiffs’ Motion for
 20 Permission to Serve 30(b)(6) Notice on Facebook Regarding FTC Complaints and Consent Orders
 21 (Dkt. 1028-3), or Special Master’s Second Amended Order on Plaintiffs’ Motion to Compel
 22 Additional Production of Quips, Tasks, and Groups (Dkt. 1030-3). Facebook is reviewing the
 23 exhibits to these three orders, and will submit an amended statement in support of sealing portions
 24 of the exhibits to the Special Master’s Orders on September 9, 2022.

25 **II. The Good Cause Standard Applies Because the Motion Is Unrelated to the Merits**

26 Courts seal information in non-dispositive motions so long as there is good cause to do so
 27 because public disclosure of the information would cause harm or prejudice, and the request is
 28 narrowly tailored. *Doe v. Walmart, Inc.*, 2019 WL 636362, at *1–2 (N.D. Cal. Feb. 11, 2019).

1 Here, the Special Master's Orders are related to the discovery record, not the merits of this action,
 2 so the good cause standard applies.

3 **III. There Is Good Cause for Facebook's Proposed Redactions and Sealing**

4 Facebook asks the Court to permanently seal the following categories of information:

5 ***(i) Confidential information regarding Facebook's proprietary data systems and data***
 6 ***storage and processing practices.*** As set forth in the Falconer Declaration and Proposed Order,
 7 Facebook asks the Court to seal confidential information regarding details about the data systems
 8 that house specific data and how Facebook stores, tracks, preserves, deletes, and processes data.
 9 This information involves key components of Facebook's business that set it apart and ahead of
 10 its competitors and reveals confidential technical information about its data systems and
 11 proprietary methods for storing and processing data. Falconer Decl. ¶ 4. If this information were
 12 publicly disclosed, competitors could use it to improve their own methods for managing high
 13 volumes of user data or for tracking user data across data systems. *Id.* Courts routinely seal
 14 commercially sensitive information that "competitors would be able to take advantage of" and use
 15 unfairly if disclosed. *See, e.g., Asetek Danmark A/S v. CMI USA, Inc.*, 2015 WL 4511036, at *2
 16 (N.D. Cal. July 23, 2015). Additionally, hackers and other bad actors could use this information
 17 to better understand Facebook's data systems and target specific repositories of data, potentially
 18 harming both Facebook and its users. Falconer Decl. ¶ 4. The Court has previously found good
 19 cause to seal this type of information. *See, e.g.,* Dkt. 813 at 0026–29 (requesting sealing data
 20 system names); Dkt. 844 (granting motion to seal).

21 ***(ii) Confidential information regarding Facebook's privacy and platform policy***
 22 ***enforcement practices.*** Facebook asks the Court to seal confidential information, set forth in the
 23 Falconer Declaration and Proposed Order, regarding Facebook's privacy and platform
 24 enforcement practices. Disclosure of information about Facebook's decision-making process for
 25 evaluating apps and developers that may be violating its policies would reveal confidential details
 26 of Facebook's internal business operations. Falconer Decl. ¶ 5. If this information were revealed,
 27 bad actors could use it to attempt to circumvent and evade Facebook's enforcement strategies,
 28 potentially harming both Facebook and its users. *Id.* The Court has previously sealed similar

1 information for the same reasons. *See, e.g.*, Dkt. 812 (requesting sealing of similar information);
2 Dkt. 844 (granting motion to seal).

3 **IV. The Proposed Redactions Are Narrowly Tailored**

4 Facebook's proposed redactions are narrowly tailored because the redactions are limited to
5 the narrow and limited categories of confidential and proprietary information set forth above. *See*
6 *Dunbar v. Google, Inc.*, 2013 WL 12216625, at *1 (N.D. Cal. Aug. 18, 2014) (granting sealing
7 requests that were "narrowly tailored to protect . . . proprietary information").

8 * * *

9 For these reasons, Facebook respectfully requests that the Court permanently seal the
10 materials attached to Plaintiffs' Administrative Motion as set forth herein and as fully set forth in
11 the Proposed Order.

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1 Dated: September 6, 2022

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